IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No. 140 of 1995
Date of decision:14.11.2006

The Commissioner of Income Tax, Central Ludhiana

....Petitioner

versus

M/s Avon Cycles (P) Limited, Ludhiana

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. SK Garg Narwana, Advocate, for the revenue.
Mr. Akshay Bhan, Advocate, for the assessee.

JUDGMENT:

Following questions of law have been referred for the opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short, 'the Tribunal) arising out of its order dated 7.1.1994 in ITA No.332/Chandi/1989, for the assessment year 1985-86:-

> "1. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the first proviso to section 43B, inserted by the Finance Act, 1987, w.e.f 1.4.1988, has retrospective application?
>
> 2. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that expenses on car maintenance and insurance are not hit by the provisions of Section 37 (3A) of the Income Tax Act?"

We have heard learned counsel for the parties.

We proceed to answer the questions referred.

Re:Q.No.1

We find that the matter is covered by judgment of the Hon'ble Supreme Court in in **Allied Motors (P) Limited v. CIT,** (1997) 224 ITR

677, in favour of the assessee and against the revenue.

Accordingly, Question No.1 is answered against the revenue and in favour of the assessee.

Re:Q.No.2

We find that the issue involved in this question has been gone into by this Court vide judgment dated 18.9.2006 in ITR No.392 of 1995, **The Commissioner of Income Tax, Patiala v. M/s Punjab Tractors, Mohali**, wherein, following judgment of the Hon'ble Supreme Court in **Britannia Industries Limited v. CIT and another,** (2005) ITR 546, the question was answered in favour of the revenue and against the assessee.

Accordingly, Question No.2 is answered in favour of the revenue and against the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

November 14, 2006 (Rajesh Bindal)
'gs' Judge